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18 July 2014

Legal and Constitutional Affairs Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Sir/ madam,

**Re:** *The Australian Citizenship Amendment (Intercountry Adoption) Bill 2014*

### **Background**

VANISH Inc. is a non-sectarian, community organisation that has been funded by the Department of Human Services Victoria for the past 25 years to provide information, search and individual and group support services to those with an adoption experience across Victoria, and reaching people living in other States of Australia and overseas.

VANISH works with the complexity of the lived experience for all members of the adoption circle, both local and intercountry adopted, and is well informed as to the impact of trauma, persistent grief and disruptions to identity for the individual and their family and the burden that this can have on the nation's health and mental health budgets over a life time. VANISH is well placed to comment on the impact of changes to the *Australian Citizenship Amendment (Intercountry Adoption) Bill 2014*.

VANISH provided a response to the Commonwealth Interdepartmental Committee on Overseas Adoption: Terms of Reference of (February 2014) and has participated in the Senate Inquiry into Former Forced Adoption Policies and Practices (2012) as well as the Australian Institute of Family Studies, History of Adoption Project (2012). VANISH regularly provides information sessions for professionals across Victoria, provides a small counselling service, secondary consultation for professionals, mentors social work and counselling students and participates in individual research projects.

### **Implications of the Proposed Changes**

VANISH is aware that the *Australian Citizenship Amendment (Intercountry Adoption) Bill 2014*, if passed, will allow children adopted by Australian citizens under bilateral arrangements to apply to become Australian citizens in the same way as children adopted by Australian citizens under the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*. This will simplify the process and reduce the cost and time to adopting families by allowing the children to travel to Australia on an Australian passport with their new families, as Australian citizens.

However, this proposed legislative change has the potential to place children at risk in unintended ways. The ratification of the *Hague Convention* by the Australian government in 1998 was welcomed by Victoria and the other States and Territories because of the Commonwealth's recognition of the vulnerability of children to exploitation, alongside a long and proven history of poor practice and poor outcomes when the movement of children across countries is uncontrolled.

It is of concern to VANISH that the adoption of children from overseas regulated by formal agreement between State, Territory and Commonwealth governments is now being proposed as a federally endorsed dual adoption system, comprising (i) a domestic intercountry adoption program provided via a non-government / centralised organisation which is compliant with the *Hague Convention*; and (ii) a less regulated process for adoption overseas by expatriate Australians which may not be compliant with the *Hague Convention*.

This new Amendment will mean that Australia is no longer involved in the process of confirming that a child has been relinquished and adopted according to the ethical principles and legal checks and balances of the *Hague Convention*, leaving us as a nation open to the potential allegation of being a party to child trafficking. The Amendment will also potentially allow the laws and practices of resource poor countries, with less capacity to approach conformity to the requirements of the *Hague Convention*, to determine our future citizenry, a practice which is not adhered to in other aspects of our migration system.

Bilateral arrangements will not guarantee that a standard of assessment and education of future adoptive parents about the life long implications of adoption will meet the level now in place in Victoria and throughout Australia.

Bilateral arrangements will not guarantee that adopters have a follow up service as currently occurs in Victoria through the Department of Human Services (DHS) Intercountry Adoption Service (ICAS) or that adoptive families will be encouraged to access the variety of information, support and contact that the Intercountry adoption community can provide. These supports, such as parent support associations, and the specialist Intercountry paediatric service provided by the Victorian Royal Children's Hospital (RCH), are essential to the development and wellbeing of children adopted from overseas and essential to their parents understanding of the unique challenges that raising an intercountry child can bring.

VANISH recognises that at the moment Australia has bilateral arrangements with only a small number of countries and that these were entered into before Australia became a signatory to the *Hague Convention*. However as an organisation we are concerned that increasing the number of countries with which we have bilateral arrangements will decrease our capacity to ensure conformity to the requirements of the *Hague Convention* and that there will be even more adoptions under new bilateral arrangements by expatriate Australians. In essence this means that Australian citizens will be encouraged to travel overseas to procure a child to adopt.

Recent experiences, in relation to sending countries that have had intercountry adoption programs with Australia, provide a salient warning about the challenges in ensuring that adoptions arranged according to the *Hague Convention*, let alone those organised via bilateral arrangements, are legitimate. In January 25<sup>th</sup> 2014 it was reported in *The Age* that a campaign group was calling for action in regard to adoptions prior to 2010 by Australians of several children from India (party to the *Hague Convention*) which were subsequently found to be illegal. In June 2012 the Attorney-General's Department closed Australia's intercountry adoption program with Ethiopia (not party to the *Hague Convention*) because "the changing and complex Ethiopian adoption environment meant that the Australian Government could no longer be confident that the program would continue to operate in a way that protected the best interests of Ethiopian children"<sup>1</sup>.

The proposed *Australian Citizenship Amendment (Intercountry Adoption) Bill 2014* also raises several questions with respect to record keeping. Will there be any requirement for notifying the

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<sup>1</sup> Source: Statement regarding 'Closure of the Ethiopia-Australia Intercountry Adoption Program', Attorney-General's website.

Australian Government of the adoption status of children adopted under bilateral arrangements? What are the future implications for children adopted under such agreements when they apply for their adoption records and other information about their adoption? Issues such as these have been well documented in the recent “Commonwealth Contribution to Former Forced Adoption Policies and Practices” Report<sup>2</sup>, as matters to be addressed by government.

Will bilateral agreements in future years lead to yet another hidden group within Australian society whose needs have not been adequately met or understood by government sanctioned practices? How will the government respond when these future adults ask why their rights and needs were not protected?

### **Our Recommendations**

It is therefore the recommendation of VANISH that:

- the best interests of children subject to intercountry adoption arrangements are always held as paramount;
- that the adoption of children from other countries only proceeds according to the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*;
- that no further bilateral agreements with sending countries are entered into;
- that the current bilateral agreements are more closely scrutinised;
- that those children who have already been adopted from overseas and their families are provided with increased government subsidised access to adoption specific and adoption sensitive early intervention support services to assist with any concerns that arise.

Manager VANISH Inc

cc: Hon Scott Morrison MP;  
Hon Richard Marles MP,  
Hon Julie Bishop MP,  
Hon Tanya Plibersek MP,  
Hon Kevin Andrews MP  
Hon Bernie Ripoll MP  
Hon. Matthew Guy  
Hon Michelle Rowland MP  
Hon George Brandis QC  
Hon Mark Dreyfus QC MP  
Hon. Mary Wooldridge MP  
Hon Daniel Andrews  
Hon Dr Denis Napthine MP  
Hon Bill Shorten MP  
Prof. Nahum Mushin, Chair, Forced Adoption Implementation Working Group  
Senator Rachel Siewert, Australian Greens  
Senator Christine Milne, Leader of the Australian Greens  
Senator Claire Moore, Labour Party Senator for Queensland  
Mr Clive Palmer, Palmer United Party

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<sup>2</sup> Community Affairs References Committee, 2012, Commonwealth Contribution to Former Forced Adoption Policies and Practices, the Senate Printing Unit, Parliament House Canberra